

Fiscal Estimate - 2009 Session

☒ Original
 ☐ Updated
 ☐ Corrected
 ☐ Supplemental

LRB Number 09-2067/1	Introduction Number AB-0419	
Description Rape shield provisions in civil proceedings, discovery and inspection of victims and witnesses, and victims rights		
Fiscal Effect State: <div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> <input checked="" type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Create New Appropriations </div> <div style="width: 33%;"> <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues </div> <div style="width: 33%;"> <input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs </div> </div> Local: <div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> <input type="checkbox"/> No Local Government Costs <input checked="" type="checkbox"/> Indeterminate 1. <input type="checkbox"/> Increase Costs 3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory </div> <div style="width: 33%;"> 5. Types of Local Government Units Affected <div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> <input type="checkbox"/> Towns <input type="checkbox"/> Counties <input type="checkbox"/> School Districts </div> <div style="width: 33%;"> <input type="checkbox"/> Village <input type="checkbox"/> Others <input type="checkbox"/> WTCS Districts </div> <div style="width: 33%;"> <input type="checkbox"/> Cities </div> </div> </div> </div>		
<div style="display: flex; justify-content: space-between;"> <div> Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS </div> <div> Affected Ch. 20 Appropriations </div> </div>		
Agency/Prepared By DA/ Phil Werner (608) 267-2700	Authorized Signature Phil Werner (608) 267-2700	Date 9/18/2009

Fiscal Estimate Narratives

DA 9/18/2009

LRB Number	09-2067/1	Introduction Number	AB-0419	Estimate Type	Original
Description Rape shield provisions in civil proceedings, discovery and inspection of victims and witnesses, and victims rights					

Assumptions Used in Arriving at Fiscal Estimate

Prosecutors anticipate no fiscal effect on their office if this bill were to be enacted.

Long-Range Fiscal Implications

No long-range fiscal impact is expected if this bill were to be enacted.

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Agency/Prepared By DOC/ Dustin Trickle (608) 240-5413	Authorized Signature Robert Margolies (608) 240-5056	Date 9/25/2009

Fiscal Estimate Narratives

DOC 9/25/2009

LRB Number	09-2067/1	Introduction Number	AB-0419	Estimate Type	Original
Description Rape shield provisions in civil proceedings, discovery and inspection of victims and witnesses, and victims rights					

Assumptions Used in Arriving at Fiscal Estimate

This bill prohibits a court from ordering a witness or a victim, as a condition of allowing testimony in a criminal case involving sexual assault or repeated sexual assault of a child, sexual assault, or other criminal acts that are sexually motivated, to submit to a psychiatric or psychological examination to assess his or her credibility. This bill also generally prohibits a defendant from compelling a crime victim to a pretrial interview or disposition.

While this bill would change victim's pre-trial procedure obligations, as well as the conditions in which testimony may be permitted during criminal proceedings, it is not clear to what extent, or whether, these provisions would affect the outcome of those proceedings. As a result, the cost implications of this bill for the Department cannot be determined.

If the provisions of this bill affect the outcome of criminal proceedings (increasing or decreasing convictions), the Department's costs will similarly increase or decrease.

The average FY09 annual cost for an inmate in a DOC institution is approximately \$31,800. However, when there is excess capacity in DOC facilities, the incremental costs (i.e. food, health care and clothing) of housing a small number of inmates is approximately \$4,900, based on FY09 costs. When there is no excess capacity in DOC facilities, as is currently the case, the Department uses contract beds at a rate of \$18,800 annually per person.

As this bill also would change victim's pre-trial procedure obligations, as well as conditions in which testimony may be permitted during criminal proceedings for crimes which may be misdemeanor offenses, outcomes of proceedings for cases which may impact local jail populations may change as well. However, because of the above stated reasons, the cost implications of this bill for local jails are indeterminate as well.

Long-Range Fiscal Implications

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Agency/Prepared By SPD/ Mike Tobin (608) 266-8259	<table style="width: 100%; border: none;"> <tr> <td style="width: 70%; border: none;">Authorized Signature Krista Ginger (608) 264-8572</td> <td style="width: 30%; border: none;">Date 9/29/2009</td> </tr> </table>	Authorized Signature Krista Ginger (608) 264-8572	Date 9/29/2009
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Fiscal Estimate Narratives

SPD 9/29/2009

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Assumptions Used in Arriving at Fiscal Estimate

The State Public Defender (SPD) is statutorily authorized and required to appoint attorneys to represent indigent defendants in criminal proceedings. The SPD plays a major role in ensuring that the Wisconsin justice system complies with the right to counsel provided by both the state and federal constitutions. Any legislation has the potential to increase SPD costs if it creates a new criminal offense, expands the definition of an existing criminal offense, or increases the penalties for an existing offense.

This bill does not provide for a new criminal offense, expand the definition of a criminal offense, or increase criminal penalties. Therefore, the SPD would not be required or authorized to appoint attorneys under this bill, and the SPD does not anticipate any increase in its trial-level caseload if the bill is enacted. As discussed below, the bill could indirectly result in a small increase in the number of post-conviction appointments.

The bill would prohibit the court in certain criminal cases from ordering a witness, as a condition of the admissibility of his or her testimony, to submit to a psychological or psychiatric examination to assess his or her credibility. The bill would also prohibit the defense in a criminal case, subject to narrow exceptions, from compelling a witness to participate in a pretrial interview or deposition. The bill has other provisions that would apply in civil proceedings.

Although the bill would affect pretrial practice in some criminal cases, it is unlikely that a large number of cases would be affected. Attorneys appointed by the SPD rarely retain expert witnesses for the types of evaluations that would be prohibited by this bill. However, despite the small number of cases likely to be affected, the impact in a single case could be significant. A pretrial evaluation might lead to dismissal of an unwarranted charge against an innocent defendant. If the case proceeds to trial, the SPD incurs additional attorney costs, and the SPD might also incur the additional cost of a post-conviction appointment if the trial results in a finding of guilt.

Counties are also subject to increased costs when a new crime is created. There are some defendants who, despite exceeding the SPD's statutory financial guidelines, are constitutionally eligible for appointment of counsel because it would be a substantial hardship for them to retain an attorney. The court is required to appoint counsel at county expense for these defendants. However, for the same reason that the SPD does not anticipate any impact on its trial-level caseload, the counties are unlikely to see any such increase in case appointments.

Long-Range Fiscal Implications